



Memorandum

Date: April 12, 2000

To: CALFED Policy Group

From: Steven R. Ritchie
Acting Executive Director

Subject: February 23, 2000 Meeting Summary

Policy Group Participants

Secretary of Resources Mary Nichols; Deputy Secretary of the Interior David Hayes; Margit Aramburu, Executive Director, Delta Protection Commission; Ryan Broddrick, Department of Fish and Game; Tom Hannigan, DWR; Robert, Hight, DFG; Luana Kiger, NRCS; Jim Lecky, NMFS; Steve Macaulay, Deputy Director DWR; Peter Madsen, USACE; Felicia Marcus, Regional Director, Region IX USEPA; Earl Nelson, WAPA; CALFED Acting Executive Director Steve Ritchie; Steve Shaffer, CDFA; Larry Smith, USGS; Janice Schneider, DOI; Lester Snow, Regional Director, USBR; Mike Spear, Regional Director USFWS; Julie Tupper, USFS; Bill Vance, CalEPA; Jeff Vonk, NRCS; Patrick Wright, Resources Agency.

BDAC Participants:

Byron Buck, CUWA; Alex Hildebrand, South Delta Water Agency; Mike Madigan, Chair; Sunne McPeak, Vice-chair; Bob Raab, Save San Francisco Bay Association.

BDAC members in the audience: Rosemary Kamei, Mike Shaver, and Ann Notthoff.

The February 23, 2000 CALFED Policy Group Meeting was convened by Co-chair Mary Nichols, Secretary of Resources.

Chair's Report

Co-chair Nichols mentioned the federal/state discussions. She reported that the spirit and substance of the meetings were going well. The major focus of the participants at these sessions has been on developing implementation specifics for the Program.

Ms. Nichols said there is a great deal of interest in how to implement in early Stage 1, without pre-judging the project-level environmental documentation process.

CALFED Agencies

California The Resources Agency
Department of Fish and Game
Department of Water Resources
California Environmental Protection Agency
State Water Resources Control Board
Department of Food and Agriculture

Federal Environmental Protection Agency
Department of the Interior
Fish and Wildlife Service
Bureau of Reclamation
U.S. Geological Survey
Bureau of Land Management
U.S. Army Corps of Engineers

Department of Agriculture
Natural Resources Conservation Service
U.S. Forest Service
Department of Commerce
National Marine Fisheries Service
Western Area Power Administration

Ms. Nichols went on to note that the date of release for the final programmatic EIS/R would be delayed by about a month. At this point CALFED anticipates no impact on the anticipated date for signing of the final ROD.

Executive Director's Report

Steve Ritchie noted that the current Executive Director's report included information on the proposed federal budget as well as information on Proposition 13.

Mr. Ritchie announced that there would be a Joint Water Committee legislative hearing on February 29, 2000, on CALFED finance and governance. He noted that he and Mike Spear of USFWS would be testifying.

Preferred Program Alternative Discussion

Steve Ritchie provided a brief review on the status of the Preferred Program Alternative. He noted that CALFED is at the conclusion of the programmatic phase of the Program, and that the Program is poised to move into specific implementation projects. He went on to say that CALFED was not asking for approval today on the Preferred Alternative, but that the Program was seeking additional Policy Group feedback. He pointed out that the Preferred Alternative is intentionally broad, and therefore not as detailed as some would like, but that it provides the necessary basis for the long-term. Mr. Ritchie reminded the Policy Group that the only place language has been refined since the release of the draft EIS/R is in the descriptions of the North Delta and South Delta conveyance components. With regard to the proposed South Delta conveyance components, the current refinement expands upon the existing language to clarify what is meant by the term equivalent in "operable barriers or their equivalent." With regard to the North Delta, CALFED agencies continue to discuss how to describe the contingent nature of a potential diversion at Hood.

Report from BDAC

BDAC Chair Mike Madigan reported that BDAC proposed an amended Preferred Alternative, to be discussed by them over the next 30 days, at which time they would come out with motion of support for some revised version of the Preferred Program Alternative. Mr. Madigan stated that he didn't think that BDAC would achieve unanimous support, but that it was time for CALFED to move on. He further stated that it was time for the Bay-Delta Advisory Council to give the Policy Group its "best thoughts" and wish the Policy Group well.

Secretary Mary Nichols responded by saying that the Policy Group will continue to require ongoing stakeholder involvement and input.

BDAC Vice-chair Sunne McPeak raised the issue of CALFED governance, and referred Policy Group members to the recent letter to the Group from the BDAC Co-chairs. She noted that in that letter she and Mr. Madigan address stakeholder involvement as one of three key issues. She stated that BDAC has not been sufficient, and observed that BDAC has not functioned with the deep stakeholder input that is necessary. She went on to say that she and Mr. Madigan respectfully recommend discontinuing BDAC and creating a new forum for public input. Ms. McPeak also called for vigorous involvement from the legislature to assure a sustained commitment to implementation.

With regard to how people are nominated to participate in a new public advisory entity, Ms. McPeak emphasized that there is accountability that goes along with stakeholder participation, and that potential participants have to be able to be effective and influential representatives.

Mary Nichols noted that institutions are only as good as the people in them. She also stated that CALFED agencies are working on improving how governments talk to one another. She pointed out that when CALFED started, there was nothing like the coordination that's happening today and that BDAC should take credit for some part of that.

BDAC member Alex Hildebrand stated that, from his perspective, while there were a lot of good proposals in the Preferred Alternative, there were some major areas where not only was there no agreement but where there still was insufficient analysis. He further stated his perception that there was general agreement among BDAC members that if the current Preferred Alternative was adopted as written, BDAC wouldn't know what they had adopted. Mr. Hildebrand went on to propose inclusion of a preamble that would identify and commit to further analysis, indicate boundary conditions and describe the ground rules for determining how these issues will be resolved.

Sunne McPeak noted that BDAC was charged with bringing back a revised motion of support to BDAC on April 13. She observed that the undercurrent in BDAC discussions was that the Preferred Alternative was acceptable as far as it went, but that it did not go far enough. She stated that from her perspective, it under-optimized components that are supported by a variety of stakeholder groups, components that she stated were vital to the state's economy and environment.

Ms. McPeak stated that she wanted to see further commitment on certain components, including:

- ongoing funding for ecosystem restoration
- commitment to outflow standards for the Delta
- vigorous support and funding for WUE including recycling and optimizing water supply as much as possible
- asserting the need for groundwater and surface storage, and
- a commitment to move on these issues in Stage 1.

Ms. McPeak went on to say that the conveyance issue needs to be clearly defined. She noted that if CALFED under-optimize the through Delta approach, then CALFED and the state are in trouble. She emphasized that CALFED has got to be clear in this EIS/R that the integrated set of actions is the best for the environment.

Ms. McPeak also stated that the document should be strengthened legally. She proposed that the document be thoroughly reviewed by land use and environmental attorneys.

Mary Nichols responded by saying that maybe we need to re-visit the definition of "consensus." She expressed the view that BDAC had in fact achieved some significant agreement.

Other BDAC Member Comments

Bob Raab, BDAC member representing Save San Francisco Bay Association, expressed the concern that environmental water rights were not on par with other water rights. He noted that several other states have established environmental water rights/baseline environmental flows. He expressed concern that CALFED had not yet established targets for restoration, and further stated that CALFED should not be making up B2 water. With regard to long-term governance, Mr. Raab said he was encouraged by the proposal for creation of a Bay-Delta Commission with a separate but integrated restoration entity, with an oversight committee truly representative of public interest, on an even playing field with other interests.

Steve Hall, BDAC member and Executive Director of the Association of California Water Agencies, stated that the water community will not support the Preferred Alternative and that there may be efforts to intervene to stop the ROD. He stated that the Preferred Alternative needs to bring up the standard of commitment to take actions to deal with water supply reliability, like storage and meaningful improvement in a through-Delta conveyance.

He stated that the Hood diversion language was an impossible test to meet. Mr. Hall stated that the water community recognizes regulatory imperatives. However, given that, he went on to say it seemed reasonable that we additional ecosystem flow improvements should be linked somehow to implementation of actions for increasing water supply. Mr. Hall also said that if there was a way to deal with ROD in a way that wouldn't force people to go to their attorneys, the water users will stay at the table. If not, he stated, "we will see a complete breakdown, and we will move to the courtroom." He urged the Policy Group to consider how to deal with the ROD in a way that would avoid this conflict, that moves from planning to implementation in a way that maximizes everyone's ability to stay at the table.

Co-chair David Hayes responded to Mr. Hall by stating that Mr. Hall was mixing two issues: the programmatic EIS/R and the ROD. He acknowledged that all programmatic EIS's are frustrating, because they look at a program from the 10,000 foot perspective. He stated that the CALFED programmatic EIS/R is incredible in its breadth and scope, and the studies that underlie the EIS are numerous and thorough. He went on to say that on storage, transfers and water use efficiency, the EIS/R is significantly grounded in good analysis. He further stated that CALFED represents an incredible opportunity for California. However, members of the public cannot expect the EIS to provide answers or final solution; a programmatic EIS is by definition inadequate.

Mr. Hayes went on to say that the BDAC comments reflected the tension between the framework documents and interests of all parties, and that that is the challenge that faces CALFED in the ROD. He stated that he hoped BDAC can bring to us the kind of thematic input reflected in the memo.

BDAC Vice-chair McPeak requested that Bob Raab and Steve Hall provide specifics for a revised motion for BDAC's consideration that would make this a workable framework.

Additional public comment was offered by Gary Bobker of the Bay Institute, Mike Schaver, BDAC member and representative of the Big Valley Rancheria Indian tribe.

Gary Bobker stated that environmentalists asking CALFED to stand by its own Program, and that the two best ways were achieving a reliable funding source and reliable environmental water acquisition. He went on to state that the EIS/R process has been most successful when people have admitted uncertainties

He urged CALFED to "optimize" the so-called "soft-path" interventions before CALFED can determine the appropriate mix of water management actions. Specifically, Mr. Bobker

pointed out that CALFED has to get a better handle on conjunctive use, which represents a huge need in California.

Mike Schaver presented a letter from 58 tribes of the Central California Agency (BIA) Policy Committee. In general, his fellow Indian tribes support CALFED but had concerns about cultural resources in proposed project sites. He expressed further with how to enable effective Indian leadership in CALFED. Mr. Schaver made a statement of support for tribal involvement in CALFED oversight, and requested representation from the three geographic areas specified by the Bureau of Indian Affairs.

Outcome: No decision. Information and discussion only.

FY 2001 Restoration Program Implementation Plan

Wendy Halverson Martin reported to the Policy Group on the proposed Restoration Program Implementation plan for FFY 2001. She described the project selection process and the types of projects that CALFED would be seeking to fund.

Mike Spear commented that this project solicitation focuses up front on broad problem areas, while also focusing on sensitive species.

Colonel Madsen commented that some applicants in the past seemed not to understand their permit requirements. Ms. Halverson Martin responded by saying that all applicants have to identify their regulatory constraints/permit requirements in their applications. She added that CALFED staff are trying to work directly with the Corps and the state Reclamation Board up front to avert problems farther down the line.

With regard to distribution of funding, Ms. Halverson Martin stated that only projects that directly address priorities will be funded. However, she added that the Policy Group will have to make final call, when we know what level of funding is likely. She also added that CALFED will need to look closely at what kinds of proposals are received from the solicitation, before committing to funding a particular category. Since it is possible that some priority areas may not receive good proposals, she stated that the Interim Science board would then have the opportunity to identify candidates for direct actions. She stated that a good point for further briefing of the Policy Group would be following the initial peer review of the project applications. She added that any recommendations on directed actions from the Science Board would be brought forward to the Policy Group.

Public Comment

Steve Johnson of The Nature Conservancy commented that the ERP/MSCS does have the makings of a world class program because it creates blueprint for restoration. But he raised the question whether the ERP/MSCS was one blueprint of many, or the blueprint? He noted that some programs currently challenge the single blueprint, and asked how they would be integrated into the ERP. In particular he mentioned the Corps' Comprehensive Flood Control Study and the NMFS recovery plan for steelhead, and FERC re-licensure processes. Mr. Johnson emphasized the central importance of ensuring integration and/or consistency of all such programs with the CALFED restoration program after publication of the ROD. He urged the Policy Group to insert directives into the ROD that require this kind of consistency and linkage.

Pete Rhoads of the Metropolitan Water District commented that the ERP represented a strong beginning, with a strong scientific base, including a high quality Scientific Review Board. Mr. Rhoads pointed out two things that need to be done before ROD:

1. development of a single set of environmental priorities and
2. a clear adaptive management process, with strategic objectives and performance measures.

Mr. Rhoads went on to state that ERP/MSCS/EWA/species recovery plans/biological opinions have to be as consistent as possible. CALFED needs to say, "Here is our strategy, and we are being consistent in both the planning and the regulatory arenas, but we reserve the right to get smarter through refinement of our blueprint." Without that, he stated the whole effort will be diluted.

Gary Bobker of the Bay Institute and Chair of the Ecosystem Roundtable stated that the CALFED Policy Group needs to articulate its priorities in terms of funding allocation priorities for the ERP, and should do that now rather than later. With regard to a contingency approach, Mr. Bobker suggested that the Policy Group could decide on what funds to put into contingency funds, depending on the ultimate funding level.

Steve Hall registered a plea for refocused effort to get the Federal Bay-Delta Act authorization extended and appropriations continued. He suggested that a "Plan B" might be a supplemental appropriation.

David Hayes responded that there are many many detractors of CALFED out there, suggesting that CALFED will not mature into success. Until success evident, it is difficult for Senator Feinstein or the California House delegation to push for additional funding

Mary Nichols noted that the Governor has also been actively working with the California delegation to assure funding.

Felicia Marcus commented that she was pleased that the Policy Group was providing more guidance this year, and that it was essential to further develop how the Policy Group will provide direction on longer-term priority setting.

Action: Policy Group concurrence on the FY 2001 Ecosystem Restoration Program Proposal Solicitation package.

2000 Water Operations

Steve Macaulay and Lester Snow briefed the Policy Group on current developments to carry out the proposed suite of water operations actions that the Policy Group had reviewed at its December and January meetings. Mr. Macaulay reviewed the Year 2000 plan, and reviewed the decision-making process the water operators have refined to improved the quality and timing of their decisions. Jim Lecky provided an update on current fish takes. Steve Macaulay and Lester Snow then described the explicit measures for CVP make-up of state water.

Outcome: No action, information only.